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& LIONE

Date: February 24, 2004

To: Commissioner for Patents
Attn: Petitions

Fax No: 703-872-9306

From: Peter C. Breen
Tel. No: 312-222-8101

Client No: 10781/9

A Professional Corporation
Intellectual Property Attorneys

NBC Tower - Suite 3600
455 N. Cityfront Plaza Drive
Chicago, Illinois 60611-5599
Facsimile 312-321-4299
Telephone 312-321-4200

San Jose, CA
Indianapolis, IN
Ann Arbor, MI
Arlington, VA

No. of Pages
(inc. this page):

15

Confirmation Copy To Follow: Yes ☐ No ☒

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PLEASE CALL 312-321-4200 AND ASK FOR: Sandra L. Gray ext. 4317

THIS MESSAGE IS INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IT MAY CONTAIN PRIVILEGED, CONFIDENTIAL, ATTORNEY WORK PRODUCT, OR TRADE SECRET INFORMATION WHICH IS EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAWS. IF YOU ARE NOT THE INTENDED RECIPIENT, OR AN EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE (AND ALL COPIES) TO US BY MAIL AT THE ABOVE ADDRESS. WE WILL REIMBURSE YOU FOR POSTAGE.

COVER MESSAGE:

Applicant: Ioannis Pallikaris et al.
Re: Serial No.: 09/911,356
Filing Date: July 23, 2001
Group Art No. 3731
Title of Invention: DEVICE FOR SEPARATING THE EPITHELIUM LAYER
FROM THE SURFACE OF THE CORNEA OF AN EYE

Transmitted herewith is Transmittal Letter (in duplicate); Request for Reinstatement of Patent Term; Copy of PAIR report; Copy of Response to Notice to File Missing Parts, dated October 22, 2001; Copy of return receipt post card, stamped January 29, 2002, acknowledging same; Copy of Request for Substitute Papers.

| TRANSMITTAL LETTER | | | Case No. 10781/9 |
|---|------------------------------|------------------------------|------------------------|
| Serial No. 09/911,356 | Filing Date July 23, 2001 | Examiner Victor X. Nguyen | Group Art Unit 3731 |
| Inventor(s) IOANNIS PALLIKARIS, ET AL. | | | |
| Title of Invention DEVICE FOR SEPARATING THE EPITHELIUM LAYER FROM THE SURFACE OF THE CORNEA OF AN EYE | | | |

TO THE COMMISSIONER FOR PATENTS

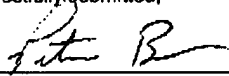
☒ Transmitted herewith is Request for Reinstatement of Patent Term; Copy of PAIR report; Copy of Response to Notice to File Missing Parts, dated October 22, 2001; Copy of return receipt post card, stamped January 29, 2002, acknowledging same; Copy of Request for Substitute Papers.

- ☐ Small entity status of this application under 37 CFR § 1.27 has been established by verified statement previously submitted.
- ☐ Applicant claims small entity status. See 37 CFR 1.27.
- ☐ Petition for a _____ month extension of time.
- ☒ No additional fee is required.
- ☐ The fee has been calculated as shown below:

| | | | | | Small Entity | | or | Other Than Small Entity | |
|---|----------------------------------|-------|---------------------------------|---------------|-----------------|-----------|----|-------------------------|-----------|
| | Claims Remaining After Amendment | | Highest No. Previously Paid For | Present Extra | Rate | Add'l Fee | | Rate | Add'l Fee |
| Total | | Minus | | | x \$9= | | | x \$18= | |
| Indep. | | Minus | | | x 43= | | | x \$86= | |
| First Presentation of Multiple Dep. Claim | | | | | +\$145= | | | +\$290= | |
| | | | | | Total add'l fee | \$ | | Total add'l fee | \$ |

- ☐ Please charge Deposit Account No. 23-1925 (BRINKS HOFER GILSON & LIONE) in the amount of \$_____. A duplicate copy of this sheet is enclosed.
- ☐ A check in the amount of \$_____ to cover the filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this communication or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.
- ☒ I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,


 Peter C. Breen
 Registration No. 47,441
 Attorney for Applicant

BRINKS HOFER GILSON & LIONE
 P.O. BOX 10395
 CHICAGO, ILLINOIS 60610
 (312) 321-4200

I hereby certify that this correspondence is faxed to the U.S. Patent and Trademark Office, at Fax Number (703-872-9306), on February 24, 2004.

Date: 2/24/04 Signature: 

Certificate of Transmission under 37 CFR 1.8

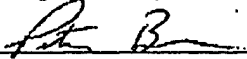
I hereby certify that this correspondence is being transmitted via facsimile (703-872-9306) to the Office of Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

February 24, 2004

Date of Transmission

Peter C. Breen, Reg. No. 47,441

Name of applicant, assignee or
Registered Representative



Signature

February 24, 2004

Date of Signature

**RECEIVED
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FEB 24 2004

OFFICIAL

Our Case No. 10781/9

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Ioannis Pallikaris et al.

Serial No. 09/911,356

Filing Date: July 23, 2001

For **DEVICE FOR SEPARATING THE
EPITHELIUM LAYER FROM THE
SURFACE OF THE CORNEA OF
AN EYE**

Examiner: Victor X. Nguyen

Group Art Unit No. 3731

**REQUEST FOR REINSTATEMENT
OF PATENT TERM**

Mail Stop: Petition
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants received a Determination of Patent Term Adjustment Under 35 U.S.C. 154(b) for the above-identified application. The Determination indicates that the Patent Term Adjustment will be 0 days. The Patent Term Adjustment, however, was improperly shortened by 306 days due to delay beyond the Applicants' control. For the reasons set forth below, Applicants respectfully request the Commissioner to

reinstate 306 days of Applicants' Patent Term Extension, for a total Patent Term Extension of 119 days.

According to the Patent Application Information Retrieval system, 306 days were deducted from Applicants' Patent Term Adjustment due to a delay in the USPTO's receipt of Applicants' Response to a Notice to File Missing Parts. (A convenience copy of the PAIR report is attached.) Applicants mailed a complete Response to the Notice to File Missing Parts well within the 3-month grace period permitted under 37 CFR 1.704(b). However, the USPTO did not receive Applicants' Response until after the end of the 3-month grace period due to delays in the delivery of first class mail caused by the anthrax incidents of October and November 2001. Moreover, there appears to have been an unexplained delay in the USPTO in processing the Response, potentially due to damage from the US Postal Service sanitization process. In spite of all due care, and because of the delay in delivery and processing of Applicants' Response to the USPTO, the Response to the Notice to File Missing Parts was not recorded within the 3-month grace period.

The Notice to File Missing Parts was mailed on September 13, 2001. Applicants' Responses were deposited with sufficient postage as first class mail with the United States Postal Service on October 22, 2001, as evidenced by the Certificate of Mailing on the face of the response. (A convenience copy of the Response, including the Certificate of Mailing, is attached.)

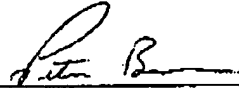
Applicants' Response was received at the USPTO on January 29, 2002—47 days after the end of the 3-month grace period under 37 CFR 1.704(b). Applicants' file was complete as of this date. Due to an apparent error at the USPTO, however, Applicants' file was not declared complete until October 15, 2002—306 days after the end of the 3-month grace period.

Pursuant to the Official Gazette Notice of December 20, 2001, Applicants should not be penalized for this delay with a reduction in the Patent Term Adjustment. Applicants mailed the Response to Notice to File Missing Parts after October 13, 2001, and before December 1, 2001, and this Request otherwise meets the substantive and procedural requirements of the Official Gazette Notice.

For the reasons set forth above, and pursuant to the Official Gazette Notice of December 20, 2001, Applicants respectfully request reinstatement of 306 days of the Patent Term Extension in this case, for a total Patent Term Extension of 119 days. Pursuant to the Official Gazette Notice of December 20, 2001, Applicants understand that the requirements of 37 CFR 1.705 (including fees) are waived. If fees are not waived, Applicants request that necessary fees be refunded because Applicants responded with due care in a timely manner to the Notice to File Missing Parts and any error appears to be on the part of the PAIR system.

The Commissioner is hereby authorized to charge payment of any necessary fees associated with this Petition to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,



Peter C. Breen
Registration No. 47,441
Attorney for Applicants

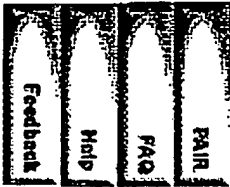
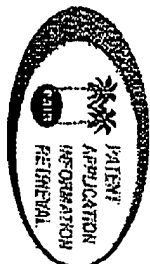
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200



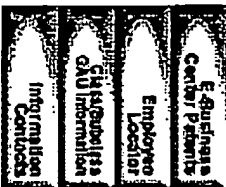
United States Patent and Trademark Office

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PATENT APPLICATION INFORMATION RETRIEVAL



Other Links



| Patent Term Adjustment (PTA) for publication number: 09/911,356 | | | |
|---|--|-----------------------------|------|
| | | | Days |
| Filing or 371(c) Date: 07-23-2001 | | USPTO Delay (PTO): | 167 |
| Issue Date of Patent: - | | Three Years: - | |
| Pre-Issue Petitions (days): +0 | | Applicant Delay (Appl): | 344 |
| Post-Issue Petitions (days): +0 | | Total PTA: | 0 |
| USPTO Adjustment (days): +0 | | Explanation of Calculations | |

Select Search Option
☐ Continuity Data
☐ File History
☐ Published Documents

Search

| Patent Term Adjustment History | | | |
|--------------------------------|------------|---|--------------------------|
| Number | Date | Contents Description | PTO (days) / APPL (days) |
| 28 | 01-21-2004 | Mail Notice of Allowance | |
| 27 | 01-20-2004 | Notice of Allowance Data Verification Completed | |
| 26 | 01-20-2004 | Notice of Allowability | |
| 25 | 01-06-2004 | Date Forwarded to Examiner | |
| 24 | 12-29-2003 | Amendment after Final Rejection | 32 |
| 23 | 12-29-2003 | Request for Extension of Time - Granted | |
| 22 | 08-27-2003 | Mail Final Rejection (PTOL - 326) | |
| 21 | 08-25-2003 | Final Rejection | |
| 20 | 06-14-2003 | Date Forwarded to Examiner | |
| 19 | 06-02-2003 | Response after Non-Final Action | 6 |
| 18 | 02-24-2003 | Information Disclosure Statement (IDS) Filed | |

| | | | | | |
|----|------------|---|--|-----|-----|
| 17 | 02-27-2003 | Mail Non-Final Rejection | | 157 | |
| 16 | 02-24-2003 | Non-Final Rejection | | | |
| 15 | 02-11-2003 | Case Docketed to Examiner In GAU | | | |
| 14 | 01-16-2003 | Case Docketed to Examiner In GAU | | | |
| 13 | 10-29-2002 | Application Dispatched from OIPE | | | |
| 12 | 10-15-2002 | Application is Now Complete | | | 306 |
| 11 | 10-09-2002 | Additional Application Filing Fees | | | |
| 10 | 10-09-2002 | A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant | | | |
| 9 | 05-20-2002 | Payment of additional filing fee/Preexam | | | |
| 7 | 05-20-2002 | A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant | | | |
| 6 | 05-20-2002 | Applicant has submitted new drawings to correct Corrected Papers problems | | | |
| 5 | 09-13-2001 | Notice Mailed--Application Incomplete--Filing Date Assigned | | | |
| 4 | 09-12-2001 | Correspondence Address Change | | | |
| 3 | 09-12-2001 | Correspondence Address Change | | | |
| 2 | 07-31-2001 | IFW Scan & PACR Auto Security Review | | | |
| 1 | 07-23-2001 | Initial Exam Team nn | | | |

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| TRANSMITTAL LETTER | | | Case No. 10781/9 |
|---|------------------------------|---------------------|------------------------|
| Serial No. 09/911,356 | Filing Date July 23, 2001 | Examiner Unknown | Group Art Unit 3731 |
| Inventor(s) Ioannis Pallikaris et al. | | | |
| Title of Invention DEVICE FOR SEPARATING THE EPITHELIUM LAYER FROM THE SURFACE OF THE CORNEA OF AN EYE | | | |

TO THE COMMISSIONER FOR PATENTS

Transmitted herewith is Transmittal Cover Letter (1p. Filed in Dup.); Notice to File Missing Parts (2pp.); Response to File Missing Parts (2p.); Check in the amount of \$502 to cover Filing Fee and surcharge; Assignment Recordation (1p.); Check in the amount of \$40 to cover Recordal of Assignment; Executed Assignment (2pp.); Executed Declaration (2pp.); Executed Power of Attorney (1p.); Information Disclosure Statement (2pp. Filed in Dup.); Form PTO 1449 (1p. 13 cited references); and PTO Reply Postcard

- ☐ Small entity status of this application under 37 CFR § 1.27 has been established by verified statement previously submitted.
- ☐ A verified statement to establish small entity status under 37 CFR §§ 1.9 and 1.27 is enclosed.
- ☐ Petition for a _____ month extension of time.
- ☒ No additional fee is required.
- ☐ The fee has been calculated as shown below:

| | | | | | Small Entity | | or | Other Than Small Entity | |
|---|----------------------------------|-------|---------------------------------|---------------|-----------------|-----------|----|-------------------------|-----------|
| | Claims Remaining After Amendment | | Highest No. Previously Paid For | Present Extra | Rate | Add'l Fee | | Rate | Add'l Fee |
| Total | 23 | Minus | 20 | 3 | x \$9= | 27 | | x \$18= | |
| Indep. | 1 | Minus | 3 | | x 42= | | | x \$84= | |
| First Presentation of Multiple Dep. Claim | | | | | +\$140= | | | +\$280= | |
| | | | | | Total add'l fee | \$27 | | Total add'l fee | \$ |

- ☐ Please charge Deposit Account No. 23-1925 (BRINKS HOFER GILSON & LIONE) in the amount of \$_____. A duplicate copy of this sheet is enclosed.
- ☒ A check in the amount of \$502 to cover the filing fee and surcharge and a check for \$40 to cover recordal of assignment are enclosed.
- ☒ The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this communication or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.
- ☒ I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Vincent J. Gnoffo
 Vincent J. Gnoffo
 Registration No. 44,714
 Attorney for Applicant

BRINKS HOFER GILSON & LIONE
 P.O. BOX 10395
 CHICAGO, ILLINOIS 60610
 (312) 321-4200

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on October 22, 2001.

Date: Oct. 22, 2001 Signature: Vincent J. Gnoffo

rev. Dec.-01
 Document 18

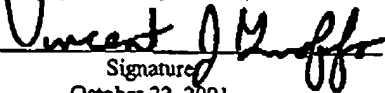
I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to:

Commissioner for Patents
Washington, D.C. 20231
on October 22, 2001

Date of Deposit

Vincent J. Gnoffo, Reg. No. 44,714

Name of applicant, assignee or
Registered Representative



Signature
October 22, 2001

Date of Signature

Case No. 10781/9

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Ioannis Pallikaris et al.

Serial No.: 09/911,356

Filed: July 23, 2001

For: DEVICE FOR
SEPARATING THE
EPITHELIUM LAYWER
FORM THE SURFACE
OF THE CORNEA OF AN
EYE

Attention: Manager,
Application Branch

**RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION
FILING DATE GRANTED**

Commissioner for Patents
Washington, D.C. 20231

Attn.: Box Missing Parts

Dear Sir:

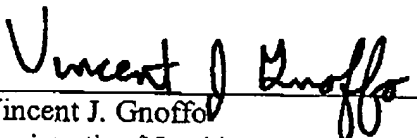
In accordance with the Notice to File Missing Parts of Application Filing Date Granted dated September 13, 2001, a copy of which is attached, enclosed herewith for filing are the following documents:

- ☒ Fully executed Declaration for Patent Application and Power of Attorney for the above-referenced patent application.

- ☒ Applicant is:
- ☒ a small entity, verified statement is:
- ☐ attached
- ☐ already filed
- ☐ other than small entity
- ☒ Checks totaling \$502 for:
- ☒ Filing Fee of \$370.
- ☒ Surcharge of \$60.
- ☒ Additional Claim Fees of \$27.
- ☐ Petition for Extension of Time (37 C.F.R. § 1.136(a)) to file missing parts (in duplicate).
- ☐ Other: _____.
- ☒ The Commissioner is hereby authorized to charge any deficiencies in fees or credit overpayment to Deposit Account No. 23-1925. A duplicate copy of this paper is enclosed.

Respectfully submitted,

Dated: October 22, 2001


Vincent J. Gnoffo
Registration No. 44,714
Attorney for Applicant(s)

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610
(312)321-4200

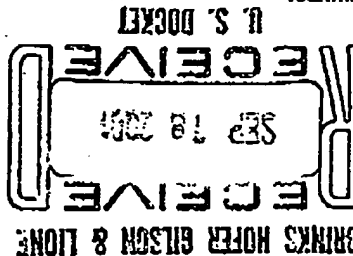
rev. Oct.-01
Document3



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|---------------------|-----------------------|------------------------|
| 09/911,356 | 07/23/2001 | Ioannis Pallikaris | 10781/9 |

VINCENT J. GNOFFO
BRINKS, HOFER, GILSON & LIONE
455 N. CITYFRONT
NBC TOWER, SUITE 3600
CHICAGO, IL 60611

CONFIRMATION NO. 3390

FORMALITIES LETTER



OC000000008547316

Date Mailed: 09/13/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).


- The statutory basic filing fee is missing.
Applicant must submit \$ 355 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).
- Total additional claim fee(s) for this application is \$27.
 - \$27 for 3 total claims over 20.
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 447.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
 - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

A copy of this notice MUST be returned with the reply.


Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

Case No. 10781/9
Applicant PALLIKARIS et al.

Director of The United States Patent & Trademark Office
Washington, D.C. 20231

Applicant: PALLIKARIS, Ioannis et al.

Serial No: 09/911,356

Client/Matter: 10781/9

Items Mailed: Transmittal Cover Letter (1p. Filed in Dup.); Notice,
File Missing Parts (2pp.); Response to File Missing Parts (2p.); Check in the
amount of \$502 to cover Filing Fee and surcharge; Assignment Recordation
(1p.); Check in the amount of \$40 to cover Record of Assignment; Executed
Assignment (2pp.); Executed Declaration (2pp.); Executed Power of Attorney
(1p.); Information Disclosure Statement (2pp. Filed in Dup.); Form PTO 1449
(1p. 13 cited references); and PTO Reply Postcard

BRINKS HOFER GILSON & LIONE

By: Vincent J. Gnoffo, Reg. No. 44, 714

Date of Mailing: October 22, 2001





UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER OF PATENTS AND TRADEMARKS
 Washington, D.C. 20231
www.uspto.gov

| Application Number | Filing Date | First Named Applicant | Atty. Docket No. |
|--------------------|-------------|-----------------------|------------------|
| 09/911,356 | 07/23/2001 | Pallikaris, Ioannis | 10781/9 |

VINCENT J. GNOFFO
 BRINKS, HOFER, GILSON & LIONE
 455 N. CITYFRONT
 NBC TOWER, SUITE 3600
 CHICAGO IL 60611

Title: Device for separating the epithelium layer from the surface of the cornea of an eye

Date Mailed: 09/23/2002

Request for Substitute Papers

The papers filed on 01/29/02 (certificate of mailing dated 10/22/01) are no longer in condition to become part of the permanent records of the United States Patent and Trademark Office (USPTO) for this application (37 CFR 1.52(a)) due to the United States Postal Service sanitization process.

The USPTO requests that applicant provide a copy of the above-identified papers (except for any U.S. or foreign patent documents submitted with the above-identified papers) with a statement that such copy is a complete and accurate copy of the above-identified papers (signing and returning a copy of this notice will provide such a statement). The reply to this letter should be submitted to the USPTO by facsimile at the number indicated **703-746-4060(OIPE)**.

Alternatively, the reply to this letter may be hand-carried to the Customer Service Window located in Room 1B03 of Crystal Plaza Building 2, Arlington, Virginia, 22202.

The USPTO **strongly** prefers that the reply to this letter be submitted by facsimile. However, if applicant cannot submit the reply to this letter by facsimile (or hand-delivery), the reply may be mailed to: Box Duplicate OIPE, U.S. Patent and Trademark Office, P.O. Box 2327, Arlington, VA 22202-2327.

This letter is not a notice under 37 CFR 1.251. However, failure to timely reply to this notice within **two (2) weeks** of the date of receipt of this letter may result in the USPTO issuing a notice under 37 CFR 1.251. A copy of this notice should be included with the reply.

The enclosed papers are a complete and accurate copy of the above-identified papers.

Name: VINCENT J. GNOFFO Registration No.: 44,714

Signature: Vincent J. Gnoffo Date: 10.8.02

